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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

JP92000184US1/3340P

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on March 28, 2005

Signature

Typed or printed name Erin C. Ming

Application Number

09/938,221

Filed

August 23, 2001

First Named Inventor

Seiichi KAWANO

Art Unit

2821

Examiner

Jimmy T. VUJ

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/95)

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☐ attorney or agent acting under 37 CFR 1.34.

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
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Erin Ming

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Date: March 28, 2006

Seichi KAWANO

Confirmation No. 1698

Serial No: 09/938,221

Group Art Unit: 2821

Filed: August 23, 2001

Examiner: Jimmy T. VU

For: BRIGHTNESS CONTROLLING APPARATUS, BRIGHTNESS ADJUSTING SYSTEM, COMPUTER SYSTEM, LIQUID CRYSTAL DISPLAY UNIT, BRIGHTNESS CONTROLLING METHOD, COMPUTER SOFTWARE, AND STORAGE MEDIUM

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**PRE-APPEAL BRIEF**

Dear Sir or Madam:

In the present application, claim 1 has been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,760,760 to Helms. Applicant respectfully submits that the rejection is improper since Helms clearly fails to disclose the elements recited in claim 1 and as such, a prima facie case of anticipation has not been established.

Claim 1 recites “an evaluator for detecting a feature of a certain window displayed on a screen of a display unit.” Element 14 in Helms has been cited as disclosing the “evaluator” recited in claim 1.

Helms, however, only states that the “photodetector or light sensor 14 . . . [is] for detecting a level of ambient light directed toward the front of the LCD 12 and for generating signals indicative of same” (col. 3, lns. 17-21) (emphasis added). Thus, element 14 in Helms is not “for detecting a feature of a certain window displayed on a screen of a display unit,” and as such, cannot be construed as disclosing the “evaluator” recited in claim 1 (emphasis added).

Further, as clearly shown in Figures 1 and 4 of Helms, photodetector/light sensor 14 cannot possibly detect anything displayed on a screen since it is illustrated as being above LCD 12 and pointing away from the front of LCD 12, not towards it. Therefore, element 14 cannot be “an evaluator for detecting a feature of a certain window displayed on a screen of a display unit,” as recited in claim 1.

Moreover, the goal of Helms is to “automatically [adjust] the brightness level of an LCD based on the ambient lighting conditions of the environment in which the LCD is being operated” (col. 2, lns. 6-9) (emphasis added). Whereas, claim 1 recites “a display controller for controlling the brightness of said screen of said display unit according to said feature of said window, detected by said evaluator” (emphasis added). Hence, while Helms is directed towards adjusting screen brightness based on lighting conditions external to the screen, claim 1 is directed towards adjusting screen brightness based on what is displayed on the screen.


Accordingly, applicant respectfully submits that Helms clearly fails to disclose the elements recited in claim 1 and as such, the rejection is improper since a prima facie case of anticipation has not been established.

**CONCLUSION**

On the basis of the above remarks, reconsideration and allowance of the claims is believed to be warranted and such action is respectfully requested.

Respectfully submitted,  
SAWYER LAW GROUP LLP

Dated: March 28, 2006



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